

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Martha Jane Degarmo

Case No. 07-81668

Chapter 13

Social Security No. xxx-xx-3735

Address: Post Office Box 1713, Carthage, 28327-1713

Debtor

OBJECTION TO CLAIM

NOW COMES the Debtor above-named, through counsel, pursuant to 11 U.S.C. §502 and Bankruptcy Rule 3007, who respectfully objects to the proof of claim #31 filed by the creditor eCast Settlement Corporation as agent for HSBC Bank Nevada and dated February 13, 2008, for the following reasons:

The Proof of Claim filed by eCast/HSBC does not, in contravention of Federal Bankruptcy Rule 3001(c), include a copy of the writing upon which is based or a statement of the circumstances under which such writing was lost or destroyed.

Accordingly, pursuant to In re Andrews, 394 B.R. 384, 388 (Bankr. E.D.N.C. 2008), this claim should not be considered presumptively valid.

Further, pursuant to In re Forrest, Case No. 06-01967-8-RDD (Bankr. E.D.N.C. May 22, 2009) and Unifund CCR Partners v Dover, 681 S.E.2d 565, 2009 WL 2180672 (N.C.App. July 21, 2009) the Proof of Claim does not satisfy the requirements for an account stated, namely that the Proof of Claim does not include an "itemization of credit extended to cover individual transactions." Id.

Further, the Proof of Claim contains no verification that either eCast, HSBC or Cynthia Groff, who prepared this Proof of Claim is "in any way connected to the establishment or maintenance of the alleged credit card account..." Id.

WHEREFORE, the Debtor prays that the Court enter an Order disallowing the claim in its entirety.

Dated: December 11, 2009

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Edward Boltz

Edward Boltz

N.C. State Bar No. 23003

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claimomd.wpt (rev. September 2, 2009)

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CERTIFICATE OF SERVICE

I, Renee Nolte, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on 12/16/09. I served copies of the foregoing **OBJECTION TO CLAIM** electronically or, when unable, by regular first-class U.S. mail, addressed to the following parties:

HSBC Bank Nevada
by eCast Settlement Corporation
Attn: Managing Agent
Post Office Box 35480
Newark NJ 07193-5480

U.S. Bankruptcy Administrator

Richard M. Hutson, II
Chapter 13 Trustee

/s Renee Nolte
Renee Nolte

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VERIFICATION

Martha Jane DeGarmo, the Debtor herein, declares under penalty of perjury that the factual allegations set forth in the foregoing Objection to Claim are true and correct, to the best of said Debtor's knowledge, information and belief.

Dated: December 16, 2009

/s/ Martha Jane Degarmo

Martha Jane DeGarmo, Debtor